

SENATE BILL REPORT

SB 5350

As Reported By Senate Committee On:
Judiciary, February 6, 2007

Title: An act relating to telephone records.

Brief Description: Modifying provisions affecting the unauthorized transfer of telephone records.

Sponsors: Senators Kline and Hargrove.

Brief History:

Committee Activity: Judiciary: 2/06/07 [DPS, w/oRec].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5350 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Hargrove, Murray and Weinstein.

Minority Report: That it be referred without recommendation.

Signed by Senators Carrell and Roach.

Staff: Juliana Roe (786-7405)

Background: The law currently states that a person is guilty of the unauthorized sale or procurement of telephone records if the person intentionally sells the records without the affected customer's authorization. This does not include the mere transfer of the records. One who intentionally sells, fraudulently obtains, or knowingly purchases telephone records without the authorization of the customer to whom the record pertains is guilty of a class C felony punishable by up to one year in jail and a \$10,000 fine. One who knowingly receives the telephone records without authorization is guilty of a gross misdemeanor punishable by up to one year in jail and a \$5,000 fine. Current law treats each sale, purchase, transfer, or receipt of telephone records as one inclusive charge rather than one charge for each individual customer whose right was violated.

Summary of Bill: A person is guilty of the unauthorized sale or procurement of telephone records if the person intentionally or knowingly sells or transfers, without consideration to any public or private third party, the telephone record of any resident of Washington State without the affected customer's authorization. This does not apply to any action by a government agency, or any officer, employee, or agent of such agency, to obtain telephone records in

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connection with the performance of rate setting or other official duties of the agency. Each violation against an individual customer constitutes a separate charge.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Judiciary): The element of intent is removed as an element of the crime. This substitute also limits the exemption created for a government agency, or any officer, employee, or agent of such agency, specifically to rate setting duties of the company. Furthermore, the substitute removes the provision creating a separate charge for each violation against an individual.

Appropriation: None.

Fiscal Note: Requested on January 15, 2007.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: CON: This bill is an expansion of legislation that was passed last year. It significantly expands upon liability considerations. The purpose of the bill is unclear. The purpose of adding the term knowingly to Section 1 of the bill is unclear. There does not appear to be a distinction between knowing and intentional.

OTHER: This bill has not yet been reviewed by the Washington Utilities and Transportation Commission. Therefore, the Commission is not able to comment on the substance of the bill or what position the Commission will hold with regard to the bill.

Persons Testifying: CON: Cliff Webster, Verizon Wireless.

OTHER: Bob Wallis, Washington Utilities and Transportation Commission.